

**A RESOLUTION
BY CITY UTILITIES COMMITTEE**

A RESOLUTION AUTHORIZING THE MAYOR OR HER DESIGNEE TO EXECUTE A PROJECT FRAMEWORK AGREEMENT BETWEEN THE CITY OF ATLANTA AND THE GEORGIA DEPARTMENT OF TRANSPORTATION FOR DESIGN AND CONSTRUCTION SERVICES ON FAIRBURN ROAD AT THE CSX RAILROAD; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta ("City") has represented to the Georgia Department of Transportation ("GDOT") a desire to construct the Fairburn Road at CSX Railroad Project Number CSBRG-0008-00(299), PI #0008299; and

WHEREAS, the City has represented to GDOT a desire to make Transportation Facility Improvements for bicycle and pedestrian use; and

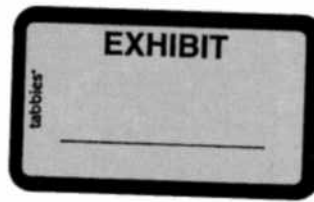
WHEREAS, GDOT has expressed a willingness to participate in the funding for the construction phase of this transportation improvement project with funds appropriated to the GDOT by the Federal Highway Administration, under Title 23, United States Code, Section 194, or a combination of funds from above; and

WHEREAS, GDOT has expressed a willingness to participate by funding Eighty percent (80%) of the construction of the project as set forth in the Project Framework Agreement ("PFA") for this project (attached hereto as Exhibit "A"); and

WHEREAS, GDOT has requested that the City participate in the construction of this project by funding One Hundred percent (100%) of design services, right of way costs, and utility relocation costs, directly related to the completion of this project as described in the PFA, and Twenty percent (20%) of the construction costs for this project.

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY RESOLVES, that the Mayor or her designee is authorized to execute an appropriate Project Framework Agreement with the Georgia Department of Transportation for the design and construction of this pedestrian project.

BE IT FINALLY RESOLVED, that the Project Framework Agreement will not become binding on the City and the City will incur no liability or obligation under it until has been approved as to form by the City Attorney, executed by the Mayor, attested to by the Municipal Clerk, and delivered to the Georgia Department of Transportation.



CSBRG-0008-00(299), City of Atlanta

**AGREEMENT
BETWEEN
DEPARTMENT OF TRANSPORTATION
STATE OF GEORGIA
AND
CITY OF ATLANTA
FOR
TRANSPORTATION FACILITY IMPROVEMENTS**

This Framework Agreement is made and entered into this ____ day of _____, 20__, by and between the DEPARTMENT OF TRANSPORTATION, an agency of the State of Georgia, hereinafter called the "DEPARTMENT", and the **CITY OF ATLANTA**, acting by and through its Mayor and City Council, hereinafter called the "LOCAL GOVERNMENT".

WHEREAS, the LOCAL GOVERNMENT has represented to the DEPARTMENT a desire to improve the transportation facility described in Attachment A, attached and incorporated herein by reference and hereinafter referred to as the "PROJECT"; and

WHEREAS, the LOCAL GOVERNMENT has represented to the DEPARTMENT a desire to participate in certain activities including the funding of certain portions of the PROJECT and the DEPARTMENT has relied upon such representations; and

WHEREAS, the DEPARTMENT has expressed a willingness to participate in certain activities of the PROJECT as set forth in this Agreement; and

WHEREAS, the Constitution authorizes intergovernmental agreements whereby state and local entities may contract with one another "for joint services, for the provision of services, or for the joint or separate use of facilities or equipment; but such contracts must deal with activities, services or facilities which the parties are authorized by law to undertake or provide." Ga. Constitution Article IX, §III, ¶I(a).

NOW THEREFORE, in consideration of the mutual promises made and of the benefits to flow from one to the other, the DEPARTMENT and the LOCAL GOVERNMENT hereby agree each with the other as follows:

1. The LOCAL GOVERNMENT shall contribute to the PROJECT by funding all or certain portions of the PROJECT costs for the preconstruction engineering (design), hereinafter referred to as "PE", all reimburseable utility/railroad relocations, all non-reimburseable utilities owned by the LOCAL GOVERNMENT, railroad costs, right of way acquisitions and construction, as specified in Attachment A, attached hereto and incorporated herein by reference. Expenditures incurred by the LOCAL GOVERNMENT prior to the execution of this AGREEMENT or subsequent funding agreements shall not be considered for reimbursement by the DEPARTMENT. Upon execution of this Agreement, the LOCAL GOVERNMENT hereby agrees and shall transfer to the DEPARTMENT the sum of Zero and No/100 Dollars (\$0.00) for

the purpose of providing the DEPARTMENT with the local match for the costs of the PE activities.

2. The DEPARTMENT shall contribute to the PROJECT by funding all or certain portions of the PROJECT costs for the PE activities, right of way acquisitions or construction as specified in Attachment A.

3. It is understood and agreed by the DEPARTMENT and the LOCAL GOVERNMENT that the funding portion as identified in Attachment "A" of this Agreement only applies to the PE. The Right of Way and Construction funding estimate levels as specified in Attachment "A" are provided herein for planning purposes and do not constitute a funding commitment for right of way and construction. The DEPARTMENT will prepare LOCAL GOVERNMENT Specific Activity Agreements for funding applicable to Right of Way or Construction when appropriate.

Further, the LOCAL GOVERNMENT shall be responsible for repayment of any expended federal funds if the PROJECT does not proceed forward to completion due to a lack of available funding in future PROJECT phases, changes in local priorities or cancelation of the PROJECT by the LOCAL GOVERNMENT without concurrence by the DEPARTMENT.

4. The LOCAL GOVERNMENT shall be responsible for all costs for the continual maintenance and operations of any and all sidewalks and the grass strip between the curb and the sidewalk within the PROJECT limits.

5. Both the LOCAL GOVERNMENT and the DEPARTMENT hereby acknowledge that Time is of the Essence. It is agreed that both parties shall adhere to the schedule of activities currently established in the approved Transportation Improvement Program/State Transportation Improvement Program, hereinafter referred to as "TIP/STIP". Furthermore, all parties shall adhere to the detailed project schedule as approved by the DEPARTMENT, attached as Attachment B and incorporated herein by reference. In the completion of respective commitments contained herein, if a change in the schedule is needed, the LOCAL GOVERNMENT shall notify the DEPARTMENT in writing of the proposed schedule change and the DEPARTMENT shall acknowledge the change through written response letter; provided that the DEPARTMENT shall have final authority for approving any change.

If, for any reason, the LOCAL GOVERNMENT does not produce acceptable deliverables in accordance with the approved schedule, the DEPARTMENT reserves the right to delay the PROJECT's implementation until funds can be re-identified for construction or right of way, as applicable.

6. The LOCAL GOVERNMENT shall certify that the regulations for "CERTIFICATION OF COMPLIANCES WITH FEDERAL PROCUREMENT REQUIREMENTS, STATE AUDIT REQUIREMENTS, AND FEDERAL AUDIT REQUIREMENTS" are understood and will comply in full with said provisions.

7. The DEPARTMENT shall accomplish all of the PE activities for the PROJECT.

8. The LOCAL GOVERNMENT, unless shown otherwise on Attachment A, shall acquire the Right of way in accordance with the law and the rules and regulations of the FHWA including, but not limited to, Title 23, United States Code; 23 CFR 710, et. Seq., and 49 CFR Part 24 and the rules and regulations of the DEPARTMENT. Upon the DEPARTMENT's approval of the PROJECT right of way plans, verification that the approved environmental document is valid and current, a written notice to proceed will be provided by the DEPARTMENT for the LOCAL GOVERNMENT to stake the right of way and proceed with all pre-acquisition right of way activities. The LOCAL GOVERNMENT shall not proceed to property negotiation and acquisition whether or not the right of way funding is Federal, State or Local, until the right of way agreement named "Contract for the Acquisition of Right of Way" prepared by the DEPARTMENT's Office of Right of Way is executed between the LOCAL GOVERNMENT and the DEPARTMENT. Failure of the LOCAL GOVERNMENT to adhere to the provisions and requirements specified in the acquisition contract may result in the loss of Federal funding for the PROJECT and it will be the responsibility of the LOCAL GOVERNMENT to make up the loss of that funding. Right of way costs eligible for reimbursement include land and improvement costs, property damage values, relocation assistance expenses and contracted property management costs. Non reimbursable right of way costs include administrative expenses such as appraisal, consultant, attorney fees and any in-house property management or staff expenses. The LOCAL GOVERNMENT shall certify that all required right of way is obtained and cleared of obstructions, including underground storage tanks, 3 months prior to advertising the PROJECT for bids.

9. The LOCAL GOVERNMENT unless otherwise noted in attachment "A" shall be responsible for funding all LOCAL GOVERNMENT owned utility relocations and all other reimbursable utility/railroad costs. The costs include but are not limited to PE, easement acquisition, and construction activities necessary for the utility/railroad to accommodate the PROJECT. The terms for any such reimbursable relocations shall be laid out in an agreement that is supported by plans, specifications, and itemized costs of the work agreed upon and shall be executed prior to certification by the DEPARTMENT. The LOCAL GOVERNMENT shall certify via written letter to the DEPARTMENT's Project Manager and District Utilities Engineer that all Utility owners' existing and proposed facilities are shown on the plans with no conflicts 3 months prior to advertising the PROJECT for bids and that any required agreements for reimbursable utility/railroad costs have been fully executed. Further, this certification letter shall state that the LOCAL GOVERNMENT understands that it is responsible for the costs of any additional reimbursable utility/railroad conflicts that arise on construction.

10. The DEPARTMENT will be responsible for all railroad coordination on DEPARTMENT Let and/or State Route (On-System) projects; the LOCAL GOVERNMENT shall address concerns, comments, and requirements to the satisfaction of the Railroad and the DEPARTMENT. If the LOCAL GOVERNMENT is shown to LET the construction in Attachment "A" on off-system routes, the LOCAL GOVERNMENT shall be responsible for all railroad coordination and addressing concerns, comments, and requirements to the satisfaction of the Railroad and the DEPARTMENT for PROJECT.

11. The DEPARTMENT_i unless otherwise shown in Attachment "A"_i shall be responsible for Letting the PROJECT to construction, solely responsible for executing any agreements with all applicable utility/railroad companies_i and securing and awarding the construction contract for the PROJECT when the certification (that all needed rights of way have been obtained and cleared of obstructions)_i has been submitted by the LOCAL GOVERNMENT. If the LOCAL GOVERNMENT is shown to LET the construction in Attachment "A", the LOCAL GOVERNMENT shall follow the requirements stated in Chapter 10 of the DEPARTMENT's Local Administered Project Manual.

12. The LOCAL GOVERNMENT agrees that all reports, studies, estimates, maps, computations, computer files and printouts, and any other data prepared under the terms of this Agreement shall become the property of the DEPARTMENT if required. This data shall be organized, indexed, bound, and delivered to the DEPARTMENT no later than the advertisement of the PROJECT for letting. The DEPARTMENT shall have the right to use this material without restriction or limitation and without compensation to the LOCAL GOVERNMENT.

This Agreement is made and entered into in FULTON COUNTY, GEORGIA, and shall be governed and construed under the laws of the State of Georgia.

The covenants herein contained shall, except as otherwise provided, accrue to the benefit of and be binding upon the successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the DEPARTMENT and the LOCAL
GOVERNMENT have caused these presents to be executed under seal by their duly
authorized representatives.

DEPARTMENT OF
TRANSPORTATION

CITY OF ATLANTA

BY: _____
Commissioner

BY:

Name
Title

ATTEST:

Treasurer

Signed, sealed and delivered this
____ day of _____,
20__, in the presence of:

Witness

Notary Public

This Agreement approved by THE
CITY OF ATLANTA, the ____ day of
_____, 20__.

Attest

Name and Title

FEIN: _____

ATTACHMENT “A” **Project Number: CSBRG-0008-00(299) – The City of Atlanta**

Project (PI#, Project #, Description)	Preliminary Engineering		Right of Way			Construction		Utility Relocation	
	Funding	PE Activity by	*Funding of Real Property	Acq. by	Acq. Fund by	*Funding	Letting by	Utility Funding by	Railroad Funding by
PI# 0008299 CSBRG-0008-00(299) CR 1349/Fairburn Rd (a) CSX RR	(80%) Federal (\$99,185.31) (20%) State (\$24,796.33)	GDOT	(100%) LCL GOV (\$987,521.00)	Local Gov.	Local Gov.	(80%) Federal (\$2,895,396.08) (20%) State (\$723,849.02)	GDOT	100% GDOT Local Gov. Owned Utilities – 100% Local	100% GDOT

Note: Maximum allowable GDOT participating amounts for PE category shall be shown above. Local Government will only be reimbursed the percentage of the accrued invoiced amounts up to but not to exceed the maximum amount indicated. *R/W and Construction amounts shown are estimates for budget planning purposes only.

Part II: Legislative White Paper: (This portion of the Legislative Request Form will be shared with City Council members and staff)

A. To be completed by Legislative Counsel:

Committee of Purview: City Utilities Committee

Caption: A RESOLUTION AUTHORIZING THE MAYOR OR HER DESIGNEE TO EXECUTE A PROJECT FRAMEWORK AGREEMENT BETWEEN THE CITY OF ATLANTA AND THE GEORGIA DEPARTMENT OF TRANSPORTATION FOR DESIGN AND CONSTRUCTION SERVICES ON FAIRBURN ROAD AT THE CSX RAILROAD; AND FOR OTHER PURPOSES.

Council Meeting Date: December 7, 2009

Requesting Dept.: Department of Public Works

B. To be completed by the department:

1. Please provide a summary of the purpose of this legislation (Justification Statement).

The purpose of this legislation is to enter into a Project Framework Agreement with the Georgia Department of Transportation for design and construction services on Fairburn Road.

2. Please provide background information regarding this legislation.

3. If Applicable/Known:

(a) **Contract Type (e.g. Professional Services, Construction Agreement, etc):**

(b) **Source Selection:**

(c) **Bids/Proposals Due:**

(d) **Invitations Issued:**

(e) **Number of Bids:**

(f) **Proposals Received:**

(g) Bidders/Proponents:

(h) Term of Contract:

4. Fund Account Center:

5. Source of Funds:

6. Fiscal Impact:

7. Method of Cost Recovery:

This Legislative Request Form Was Prepared By:

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE

ATTN: GREG PRIDGEON

Dept.'s Legislative Liaison: Soraya Belgrave

Contact Number: (404) 330-6002

Originating Department: Department of Public Works

Committee(s) of Purview: City Utilities Committee

Chief of Staff Deadline: November 17, 2009

Anticipated Committee Meeting Date(s): December 1, 2009

Anticipated Full Council Date: December 7, 2009

Legislative Counsel's Signature: Saul Schultz

Commissioner Signature: _____

Chief Procurement Officer Signature: _____

CAPTION

A RESOLUTION AUTHORIZING THE MAYOR OR HER DESIGNEE TO EXECUTE A PROJECT FRAMEWORK AGREEMENT BETWEEN THE CITY OF ATLANTA AND THE GEORGIA DEPARTMENT OF TRANSPORTATION FOR DESIGN AND CONSTRUCTION SERVICES ON FAIRBURN ROAD AT THE CSX RAILROAD; AND FOR OTHER PURPOSES.

Mayor's Staff Only

Received by CPO: _____ Received by LC from CPO: _____
(date) (date)

Received by Mayor's Office: [Signature] 11/18/09 Reviewed by: [Signature]
(date) (date)

Submitted to Council: _____